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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,628	05/31/2001	Keiichi Takanashi	2001-0689A	7179

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EXAMINER

SONG, MATTHEW J

ART UNIT	PAPER NUMBER
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1765

16

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application N .

Applicant(s)

09/867,628

TAKANASHI ET AL.

Examiner

Art Unit

Matthew J Song

1765

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 01 April 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Advisory Action

Response to Arguments

1. Applicant's arguments filed 3/26/2003 have been fully considered but they are not persuasive.

The 112 second paragraph rejection has been maintained.

In regards to applicant's argument the phrase "certain criteria" is not indefinite. Applicant's argument contends the phrase "certain criteria" in light of the specification the term "certain criteria" is clearly defined. In light of the specification the phrase "certain criteria" is defined as a set of tolerances. But the definition of "certain criteria" in the specification is indefinite; therefore "certain criteria" is indefinite.

The indefiniteness arises because the initial value in relation to the tolerance is not defined in the specification. The diameter of the main body, the initial level position and the crucible rotation speed at an early stage of forming the main body is not defined in the specification. The application of the tolerances cannot be applied without the definition of the initial values, which the tolerances are based upon. The initial values, which the tolerances are based, are essential and are not taught in the instant specification. Therefore, the term "certain criteria" is not a defined term. A determination of whether a tolerance is satisfied cannot be made without an initial value.

Furthermore, applicants contend the initial values of the criteria are within the skill of a person of ordinary skill in the art. A person of the ordinary skill at the time of the invention would be able to determine initial values of the criteria, as suggested by applicant for the diameter to be six, eight or twelve inches. However, as instantly claimed, the scope of



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